IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CIVIL APPLICALTION NO.3128 OF 2004
IN
WRIT PETITION NO.2204 OF 2002

Office Note, Office Memoranda of Coram appearance, Corut's orders or directions and Registrar's Orders:

Court's or Judge's Orders

Mr.G.S. Godbole, for the Petitioners
Mr.R.M. Patne, AGP for Respondents 1 and 2.

CORAM: F.I. REBELLO & S.P.KUKDAY, JJ.
DATE : 4th March, 2005
P.C.

. Pursuant to an order passed by this Court the petitioner who has 60% interest in the acquired land was directed to be paid compensation at the enhanced market value. It is the case of the petitioners that for releasing the said amount the Land Acquisition Officer sought a bank guarantee which was wrongly given by him under a mistake of law. He thereafter applied for cancelation of the bank guarantee and/or return of it. That is refused. In the light of that the present Civil Application.

2. We have heard the learned Counsel for the parties. The order dated 6th September, 2002 is final. There is no dispute that in the reference proceedings petitioners were awarded 60% of the compensation. In the light of that and pursuant to the order of this Court dated 6th December, 2002 the petitioners will be entitled to the enhanced

compensation. There is no question of they giving bank guarantee.

3. We make it clear that our observations are not to affirm any proposition of law as to whether the person who has not moved for reference for enhancement is entitled to enhanced amount considering the Judgment of the Apex Court in Smt. Ambay Devi Vs. State of Bihar & Anr., AIR 1996 SC 1513. With the above observations Civil Application made absolute in terms of prayer clause (a). Civil Application stands disposed of accordingly.

(F.I. REBELLO, J.)

(S.P. KUKDAY, J.)